

2.15 EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-BULLYING

Responsible Directorate	Corporate Services
Responsible Service Area	People and Culture
Resolution	March 2024 (C23.03.04)
Policy Ref	Code of Conduct for Council Members, Committee Members and Candidates (1.1) Code of Conduct for Employees (CEO) 4.15
Procedure Ref	N/A

1. PURPOSE

To provide a positive, inclusive and harassment free workplace culture and environment.

2. SCOPE

This policy applies to everyone who works at the Shire of Mundaring, including employees, potential employees, trainees, contractors and labour-hire staff, regardless of whether they work full time, part-time or as casual as well as council members, volunteers, visitors, clients and service providers.

This policy applies in the workplace including work outside normal work hours and at work related events such as conferences, training events and social functions (e.g. after hours drinks, end of year functions and at any other place where you are a representative of the Shire) and where it can be shown that there is a workplace connection or workplace impact.

3. DEFINITIONS

bullying	unreasonable or inappropriate behaviour that is directed towards an employee, or group of employees, that creates a risk to health and safety.
Chief Executive Officer	the Chief Executive Officer (CEO) of the Shire.
contact officer	someone who has been specially trained and is available to provide support and assistance on a strictly confidential basis.
council member	a person elected under the Act as a member Council. The Shire's council members includes the Shire President, Deputy Shire President and Councillors (as defined by the <i>Local Government Act 1995</i>).

discrimination	when a person is treated less favourably than another person in the same or similar circumstances based on one or more of the grounds.
indirect discrimination	occurs when an unreasonable rule (policy, procedure or practice) that appears to be neutral but has a negative effect on a particular group of peoples with characteristics that would fit into one of the grounds and the discriminated person is not able to comply with the rule.
employee	everyone who works for or with the Shire of Mundaring (workers) including line managers, full- time, part-time, or casual, temporary, or permanent employees, student placements apprentices, trainees, contractors, sub-contractors, and volunteers, with the exception of council members.
grievance officer	a person trained to conduct formal investigations and resolve informal complaints.
line manager	persons responsible for day-to-day supervision of workers, including supervisors, coordinators, managers, directors, Chief Executive Officer and Shire President.

4. POLICY

4.1. Overview

The Shire is an Equal Opportunity Employer committed to providing a safe workplace that is free from workplace behaviours that are unlawful or a risk to health and safety; and one where diversity is valued and encouraged. The Shire is committed to making decisions in relation to recruitment, selection and promotions based on merit only and not affected by irrelevant personal characteristics. This policy is part of the Shire’s risk management strategy in relation to its positive duty to identify, assess, eliminate and audit risks for the Shire.

This policy is consistent with the Shire’s Values, the “Code of Conduct for Council Members, Committee Members and Candidates” (1.1) and the “Code of Conduct for Employees” (4.15).

4.2. Responsibilities

4.2.1. Council Members

Council members are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.

- They must inform the Chief Executive Officer or Shire President as soon as possible if they observe behaviour in the workplace that they think contravenes this policy.
- They seek assistance from the Chief Executive Officer if they have any questions in relation to this policy.
- They respect confidentiality in relation to any complaint made or any suspected inappropriate conduct.

Council members may be personally liable for their actions if they do not comply with the above requirements.

Complaints regarding council members will be dealt with in accordance with the “Code of Conduct for Council Members, Committee Members and Candidates” (1.1), *Corruption Crime and Misconduct Act 2003* (WA), the Act and the *Local Government (Model Code of Conduct) Regulations 2021*, and subject to disciplinary action up to and including suspension and disqualification from holding office.

4.2.2. All Employees

All employees must be aware of this policy. They are responsible for ensuring that:

- Their behaviour in the workplace complies with this policy.
- They seek assistance from a line manager, contact officer, grievance officer or People and Culture if they have any questions in relation to this policy.
- They must inform a line manager, People and Culture or a grievance officer as soon as possible if they observe behaviour that may contravene this policy.
- They respect the confidentiality of any complaint made and avoid gossip in relation to any suspected inappropriate conduct.

Employees may be personally liable for their actions if they do not comply with the above requirements.

Unlawful behaviours and other safety breaches outlined in this policy will not be tolerated at the Shire. An employee who engages in any conduct that constitutes the behaviours as defined in this policy will be subject to disciplinary action up to and including dismissal.

4.2.3. Line Managers

Line managers will model appropriate standards of behavior in the workplace and must also:

- Apply this policy in the workplace to ensure that all employees are protected from workplace behaviours that are unlawful or a risk to health and safety.
- Manage a complaint in accordance with the Shire’s policies and procedures.
- Not victimise a person for making a complaint in good faith.

Any line manager who is made aware of any of the behaviours outlined in this policy and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to disciplinary action.

4.2.4. Employer

The Shire must:

- Do all that is reasonably practicable to eliminate and/or minimise risk in relation to unlawful behaviours and possible safety breaches.
- Make this policy is accessible to all employees and others bound by it.
- Include discussion of this policy in the employee and council member induction programs.
- Educate all employees in relation to their rights and responsibilities in relation to unlawful workplace behaviours and possible safety breaches.
- Educate line managers in relation to their responsibilities.
- Either have trained grievance officers or an external investigator to investigate complaints.
- Have trained contact officers to support employees throughout the process and/or offer free access to an external confidential counseling/support service.

The Shire has a legal obligation to eliminate, as far as practicable, the behaviours outlined in this document which are consistent with the legislation listed below.

4.3. Grounds of Discrimination

The *Equal Opportunity Act 1984* (the Act) sets out the types or grounds of discrimination which are unlawful. They are:

- gender
- race (includes colour, ethnicity, national origin, language)
- impairment or disability
- age
- pregnancy or potential pregnancy
- breastfeeding
- marital status
- family responsibility
- family status
- political conviction
- religious conviction
- gender identity/history/transgender
- sexual Orientation
- intersex status
- spent conviction
- trade union membership/activities
- fines enforcement register
- medical record.

4.4. Bullying

Behaviours that may constitute bullying include but are not limited to:

- sarcasm, threats, loud, abusive, offensive, and other forms of demeaning language
- coercion
- inappropriate blaming
- ganging up
- constant unconstructive and unjustified criticism
- deliberately withholding information or equipment that a person needs to do their job or access their entitlements, or acts of sabotaging another's work
- unjustified threats of dismissal or other disciplinary action
- spreading malicious rumours or misinformation
- inappropriate comments about a worker's appearance, lifestyle or family
- deliberately excluding a worker from workplace meetings or activities
- unreasonable refusal of requests for leave, training, or other workplace benefits
- constantly changing targets or work guidelines
- overloading a worker with work and impossible deadlines
- threats of or actual, assault or violence
- teasing and practical jokes
- isolating or ignoring a worker on a constant basis.

Where a worker makes a threat of violence or assaults another worker, the police should be called.

5. RELATED LEGISLATION

Age Discrimination Act 2004 (Cth)

Australian Human Rights Commission Act 1986 (Cth)

Disability Discrimination Act 1992 (Cth)

Disability Services Act 1993

Equal Opportunity Act 1984

Fair Work Act 2009 (Cth)

Industrial Relations Act 1979

Local Government Act 1995

Local Government (Model Code of Conduct) Regulations 2021

Minimum Conditions of Employment Act 1993

Public Interest Disclosure Act 2003

Racial Discrimination Act 1975 (Cth)

Sex Discrimination Act 1984 (Cth)

Spent Convictions Act 1988

Work Health and Safety Act 2020 and its related regulations and codes

6. RELATED DOCUMENTS

Code of Conduct Behaviour Complaints (2.7)

Complaints Management System (AS-02)

Fraud and Corruption Control Policy (OR-25)

Grievance Policy (CEO) 4.32

Hazard and Risk Management Policy (CEO) 4.30

Managing and Responding to Threats, Aggressive Behaviour and Violence from Members of the Public Guidelines

Hazard and Risk Management Procedure

Management of Grievances Procedure

Management of Suspected Misconduct Procedure (HR-25)

Work Health and Safety Incident Reporting and Investigation Management Procedure